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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,026	12/19/2001	Thomas W. Odorzynski	KCC-16,705	5887
35844	7590	05/25/2004	EXAMINER	
PAULEY PETERSEN KINNE & ERICKSON			STEPHENS, JACQUELINE F	
2800 WEST HIGGINS ROAD			ART UNIT	
SUITE 365			PAPER NUMBER	
HOFFMAN ESTATES, IL 60195			3761	

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No. 10/025,026	Applicant(s) ODORZYNSKI ET AL.	
	Examiner Jacqueline F Stephens	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8-24 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/1/03, 7/4/03</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS, 5/27/03, 4/11/03</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-4 and 8-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odorzynski et al. USPN 6245050 in view of Thomas US Patent Application Publication 2002/0019616.

As to claim 1, Odorzynski discloses an elastomeric, hot melt, pressure-sensitive adhesive film having major surfaces in the x-y plane (Abstract, Figure 2, col. 6, lines 50-53). However, Odorzynski does not disclose the adhesive film having at least two different material thicknesses in the Z axis resulting in differential tensions when the elastomeric film is stretched. Thomas discloses two different material thickness in the Z

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axis (Figures 4-7) creating varying elastic tension of an elastomeric laminate by means of varying the sizes of strands attached to the film to make the laminate (paragraph 0065) for the benefit of creating targeted elastic materials to provide an elasticized area to better conform to the body of a wearer (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the film of Odorzynski to have at least two different material thickness in the Z axis resulting in differential tensions for the benefits disclosed in Thomas.

As to claim 2, Odorzynski/Thomas disclose the elastomeric film consists of a first material composition (Odorzynski col. 4, lines 21-28).

As to claim 3, Odorzynski/Thomas disclose the elastomeric film comprises a first material composition and a second material composition (Odorzynski col. 4, lines 21-28).

As to claim 4, Odorzynski/Thomas disclose the elastomeric film is formed by hot melt coextrusion of the first material composition and the second material composition (Odorzynski col.).

As to claims 8 and 12, Odorzynski/Thomas disclose a first facing layer component adhered to a first surface of the elastomeric adhesive film to form a laminate (Odorzynski col. 5, lines 63-66), the laminate being capable of elongation in a first

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direction, the laminate having a non-elongated original length in the first direction, the laminate being retractable after elongation to a length substantially equivalent to the original length (Odorzynski col. 6, lines 42-49).

As to claim 9, Odorzynski/Thomas disclose the elastomeric, hot melt, pressure-sensitive adhesive according to claim 8 further comprising: a second facing layer component adhered to a second surface of the elastomeric adhesive film to form a laminate (Odorzynski col. 5, lines 63-66).

As to claim 10, Odorzynski/Thomas disclose the elastomeric adhesive film forms a liquid barrier (Odorzynski col. 6, lines 58-61).

As to claim 11, Odorzynski/Thomas disclose an absorbent article incorporating the elastomeric film of claim 1 (Odorzynski col. 2, lines 2-8).

As to claim 13, Odorzynski discloses a disposable absorbent article having a length and a width defining first and second waist portions and first and second longitudinal marginal portions, the article comprising: a backsheet layer 12; a topsheet layer 14; an absorbent structure 16 located between said topsheet layer and the backsheet layer; and at least one elasticized area comprising an elastomeric adhesive film comprising a hot melt pressure sensitive adhesive elastomeric film (col. 1, lines 39-44). However, Odorzynski does not disclose the adhesive film having at least two

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different material thicknesses in the Z axis resulting in differential tensions when the elastomeric film is stretched. Thomas discloses two different material thickness in the Z axis (Figures 4-7) creating varying elastic tension of an elastomeric laminate by means of varying the sizes of strands attached to the film to make the laminate (paragraph 0065) for the benefit of creating targeted elastic materials to provide an elasticized area to better conform to the body of a wearer (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the film of Odorzynski to have at least two different material thickness in the Z axis resulting in differential tensions for the benefits disclosed in Thomas.

Odorzynski/Thomas disclose the elasticized area being capable of elongation in a first direction, the elasticized area having a non-elongated original length in the first direction, the elasticized area being retractable after elongation to a length substantially equivalent to the original length (Odorzynski col. 6, lines 41-49) and said elasticized area having a cold flow value of less than 20 percent at 54 degrees C (Odorzynski col. 4, lines 21-39).

As to claim 14, Odorzynski/Thomas disclose the elasticized area is disposed adjacent a leg opening in said article (Figure 1).

As to claim 15, Odorzynski/Thomas disclose the elasticized area is present in a containment gasket (Odorzynski col. 5, lines 52-55).

As to claim 16, Odorzynski/Thomas disclose the elasticized area is disposed in one of the first and second waist portions (col. 5, lines 32-66).

As to claim 17, Odorzynski/Thomas discloses adhesives present in the elasticized area consist of the elastomeric adhesive film and the elastic elements present in the elasticized area consist of the elastomeric adhesive film.

As to claim 18, Odorzynski/Thomas disclose the elastomeric adhesive forms a liquid barrier (col. 6, lines 58-61).

As to claim 19, Odorzynski discloses a disposable absorbent article having a length and a width defining first and second waist portions and first and second longitudinal marginal portions, the article comprising the following components: a backsheet layer; a topsheet layer; and an absorbent structure located between said topsheet layer and the backsheet layer, the article including at least one elasticized area formed from an elastomeric, hot melt, pressure-sensitive adhesive film (Odorzynski col. 2, lines 8-22 and col. 4, lines 21-26).

However, Odorzynski does not disclose the adhesive film having at least two different material thicknesses in the Z axis resulting in differential tensions when the elastomeric film is stretched. Thomas discloses two different material thickness in the Z axis (Figures 4-7) creating varying elastic tension of an elastomeric laminate by means of varying the sizes of strands attached to the film to make the laminate (paragraph

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0065) for the benefit of creating targeted elastic materials to provide an elasticized area to better conform to the body of a wearer (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the film of Odorzynski to have at least two different material thickness in the Z axis resulting in differential tensions for the benefits disclosed in Thomas.

Odorzynski/Thomas disclose the elasticized area having a first component and a second component adhered to the elastomeric hot melt pressure-sensitive adhesive film, the elasticized area being elongateable in a first direction, the elasticized area having an original length in the first direction, the elasticized area being retractable after elongation to a length substantially equivalent to the original length (Odorzynski col. 5, lines 63-66 and col. 6, lines 41-49).

Odorzynski/Thomas disclose the elasticized area having the following properties:

- a) an adhesive bond strength sufficient to adhere the first and second components together during use of said disposable absorbent article;
- b) an elongation in at least one portion of the elasticized area of at least 50 percent;
- c) a retractive force in at least a first portion of the elasticized area of less than 400 grams force per inch width at 90 percent elongation and a retractive force in a second portion of the elasticized area greater than the retractive force in the first portion;
- d) a viscosity in at least one portion of the elasticized area of less than 70,000 centipoise at 177 degrees C.; and

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e) a cold flow value in at least one portion of the elasticized area of less than 20 percent at 54 degrees C (Odorzynski col. 4, lines 30-39).

As to claim 20, Odorzynski/Thomas disclose the elastomeric, hot melt, pressure-sensitive adhesive has an adhesive bond strength of at least 100 grams force per inch width (Odorzynski col. 4, lines 47-54).

As to claim 21, Odorzynski/Thomas disclose the elasticized area has an elongation of from 50 percent to 200 percent (Odorzynski col. 4, lines 54-64).

As to claim 22, Odorzynski/Thomas disclose the elasticized area has a retractive force of from about 100 grams force per inch width to about 250 grams force per inch width in the first portion (Odorzynski col. 4, line 65 through col. 5, lines 8).

As to claim 23, Odorzynski/Thomas disclose the elasticized area has a cold flow value of less than 15 percent at 54 degrees C (Odorzynski col. 5, lines 21-31).

As to claim 24, Odorzynski/Thomas disclose the elasticized area is present in said first and second longitudinal marginal portions (Odorzynski col. 5, lines 60-63).

As to claim 25, Odorzynski/Thomas disclose the elasticized area is present in at least one of said first and second waist portions (Odorzynski col. 5, lines 60-63)

As to claim 26, the elasticized area is present in a containment gasket (Odorzynski col. 5, lines 52-55).

As to claim 27, Odorzynski/Thomas disclose the elastomeric adhesive forms a liquid barrier (col. 6, lines 58-61).

Allowable Subject Matter

Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: The overall claimed combination of an elastomeric, hot melt, pressure-sensitive adhesive film having a cross section through the Z-axis with a crenellated profile, a raised area curving serpentine through the film, or a regular profile of unbroken lines in combination with a having at least two different material thicknesses in the Z-axis is neither anticipated nor rendered obvious by the prior art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703)305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacqueline F Stephens
Examiner
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May 24, 2004